RTI Matter
MOST URGENT

Ministry of Defence
[Deptt. of Ex-Servicemen Welfare]
D(WE/Res-I)

Subject: Seeking information under RTI Act, 2005.

1. Refer O/o CIC letter No. CIC/DEXSW/2022/664968 CIC/DEXSW/A/2023/639662 dated 23.01.2024 (copy enclosed).

2. It is intimated that the direction of Hon'ble Information Commissioner (as given in ibid O/o CIC's order dated 23rd Jan 2024) has been complied with by the CPIO. In that letter No. 24(09)/2022-D(WE/Res-1) dated 01.02.2024 (copy enclosed) has been issued to the appellant with copy to Deputy Registrar. A copy of the same is forwarded alongwith its enclosures.

3. This is for information and necessary action.

Encl: As above

(N K Panda)
Dy. Director, D(WE)
Tele/Fax: [illegible]

Nanda Kishore Panda
Deputy Director (WE)

CO, ECHS

DoESW ID No: 24(09)/2022/WE/D(Res-I) dated: 02.02.2024

Copy to:-

1) Shri Anirban Chakraborty
2 No. Motilal Colony
PO- Rajbari Colony
Kolkata
West Bengal-700081
— For information please

2) Deputy Registrar
Central Information Commission
Baba Gangnath Marg, Munirka
New Delhi – 110067
— For information and necessary action please

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(1)

G20
भारत 2023 INDIA
वसुधैव कुटुम्बकम्
ONE EARTH • ONE FAMILY • ONE FUTURE

No. 24(09)2022/WE/D-Rcd-I

भारत सरकार सेवार्थ
ON INDIA GOVERNMENT SERVICE

Speed Post

स्वच्छ भारत
एक कदम स्वच्छता की ओर

EMS SPEED POST
ED533563762IN

To,
SH. ANIRBAN CHAKRABORTY
2 No. MOTILAL COLONY
PO- RASBARI COLONY
KOLKATA
WEST BENGAL-700081

रक्षा मंत्रालय
Ministry of Defence
नई दिल्ली
New Delhi

Despatcher:
Date: 5/2/24
MoD/ESW/WE

Received on 8th Feb 2024.

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To, The Bad Father of ECHS, Shri Nanda Kishore Panda (Dy. Director (WE) DESW).

1 message

Anirban Chakraborty <[redacted]> Wed, Jan 31, 2024 at 00:51
To: [redacted]
Cc: MANAGING DIRECTOR ECHS <[redacted]>, DIRECTOR (COMPLAINTS & LITIGATION) <[redacted]>, [redacted], P R MOHANTY <[redacted]>, Echs Salt Lake <[redacted]>, Shri N K Panda <[redacted]>, Dr. P.P. Sharma <[redacted]>, [redacted], Bengal Area <[redacted]>, [redacted], SPS CHAUHAN <[redacted]>

Greetings,
So ssssssswwwwwwwwwwweet...

Do you remember the email attachments; not Dr. P.P. Sharma's but your own letter no. 24(09)/2022-D(WE)/Res-1 dated 4th Oct 2022 having despatch date 6th Oct 2022 with envelope and the Dak list dated 6th Oct 2022?

Fifty-two lakhs aged and helpless beneficiaries are asking you, "How does it feel?"

With regards,
Anirban Chakraborty
(Authorised representative and the patient party)

S/o
Nk Gopal Chakraborty (Retd.)
2 No. Motilal Colony, P.O.: Rajbari Colony, Calcutta 700081, West Bengal

Ph. [redacted]

ECHS Polyclinic: Saltlake
RC: Kolkata

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No: 24(09)/2022-D(WE/Res-1)
Government of India
Ministry of Defence
D/o Ex-Servicemen Welfare
D(WE)
***

To,

Shri Anirban Chakraborty,
2 No, Motilal Colony,
PO- Rajbari Colony
Kolkata
West Bengal - 700081.

Subject: Notice for hearing of appeals/complaints submitted by Sh Anirban Chakraborty by Hon'ble Information Commissioner.

Reference two Notices dated 22.12.2023 for hearing of appeal/complaints dated 22.12.2023.

2. Consequent to the direction of Hon'ble Information Commissioner, all the relevant correspondences towards documentary proof with regard to dispatch of FAA's letter dated 15.09.2022 are forwarded along with a copy of FAA's letter dated 15.09.2022.

3. This issues with the approval of Competent Authority i.e First Appellate Authority.

Encl: As stated above.

22/1/24
(N.K Panda)
Dy. Director & CPIO
Nanda Kishore Panda
Deputy Director (WE)

Copy to : -

Deputy Registrar
Central Information Commission,
Baba Gang Nath Marg,
Munirka, New Delhi – 110067.

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Most Urgent
RTI Matter (58)

24(09)/2022-D(WE)/Res-1
Government of India
Ministry of Defence
D/o Ex-Servicemen Welfare
D(WE)

....., Dated: 15.09.2022

To

Shri Anirban Chakraborty
2 No. Motilal Colony
PO- Rajbari Colony, Kolkata
West Bengal-700081

Sub:- Seeking information under RTI Act, 2005 in case of Shri Anirban Chakraborty- reg.

Reference:-

a) RTI application DEXSW/R/E/22/00523 dated 02.06.2022
b) MoD letter No. 24(09)/2022-D(WE)/Res-1 dated 27.07.2022
c) Letter No. RTIA/ACFSH/DESW/8A7(11F) dated 24th August 2022

2. It is informed that you had requested to suo moto publish online in the website of ECHS certain details about all the reimbursement claims, processed by Polyclinic in the previous month, and in that context, you have cited various sections of RTI Act, 2005 viz sec 2(j)(ii), sec 4(1)(b)(xvii) and sec 4(2) etc. On perusal of RTI Act, it is found that while sec 2(j)(ii) relates to "taking notes, extracts or certified copies of documents or records", section 4(1)(b)(xvii) relates to "such other information as may be prescribed, and thereafter update these publications every year". By and large section 4 of the RTI Act deals with the obligations of Public Authority, while section 2(j) defines, right to information. However, the information which is sought by the appellant is not actually **"the information"** within the definition given under section 2(f) of RTI Act, 2005. Because section 2(f) only discusses about that information, which is available with the Public Authority in the form of records, documents, memos, e-mails etc. On the contrary the information sought for by the appellant is more of the nature of **"complaint"** and definitions of 'information' and 'complaints' are different altogether. The appellant himself mentioned that **"information sought in RTI as well as in complaints"**. The subject complaint is mentioned in Chapter III of CVC's Vigilance manual 2021 & the same is available in public domain. The appellant can access the same on his own and will find that **'information'**, defined under RTI Act, 2005cannot be **'complaints'**, defined in Chapter III & Civil Vigilance Manual 2021 & vice versa. Because, information is those documents, records which are available with Public Authority and it is found that the appellant has not asked for any of these specific documents, records etc. (i.e. information) in his RTI application or appeal.

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57

3. In view of the same & also considering the fact that above mentioned questions are not information, as defined under section 2(f) of RTI, Act, hence no information can be shared with you.

4. If the appellant is not satisfied with the reply given along, then he may approach the 2nd Appellate Authority (i.e. CIC) .

(Dr. P.P. Sharma)
OSD & First Appellate Authority, D(WE & IC)
Tel:

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To
The Deputy Director, D(WE)/ DoESW
[redacted]

Subject:- Reply to Deputy Director D(WE)/ DoESW letter dated 16.01.2024 – reg.

Sir,

With reference to Para 4 of your letter dated 16.01.2024, where I was instructed to affirm as to whether the stated FAA's letter dated 15.09.2022 had been issued to the applicant/ appellant.

In this regard, I am attaching a copy of Noting dated 15.09.2022 and DAK list dated 06.10.2022.

You are requested to find the enclosed copy along with this letter.

Encl:- As stated above

Regards

Shivam 16/01/2024

Shivam Kashyap (ASO)
D(WE)/DoESW

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Government of India
Ministry of Defence
D/o Ex-Servicemen Welfare
D(WE/Res-I)
****

SEEKING REPLY REGARDING DOCUMENTARY PROOF OF DISPATCH OF 1ST APPELLATE AUTHORITY'S LETTER DATED 15 SEP 2022 TO APPLICANT/APPELLANT SH ANIRBAN CHAKRABORTY

It is informed that a meeting has been conducted under the chairmanship of Sh Vinod Tiwari, Information Commissioner at the O/o CIC, Muni:ka on 15th Jan 2024 for hearing of the case relating to two applications and subsequent appeals given by Sh Anirban Chakraborty. In that the undersigned in the capacity of CPIO had attended the said meeting along with the rep of CO, ECHS namely Col Anirudh Shekhawat.

2. In this context, it is pertinent to mention here that during the course of hearing RTI applicant/ appellant denied to have received First Appellate Authority's ibid letter dated 15 Sep 2022 and subsequently the FAA's letter dated 15 Sep 2022 was shown to the IC as the proof that such a letter dated 15 Sep 2022 had been generated & was issued.

3. Notwithstanding the above, IC had directed that documentary proof regarding dispatch of FAA's letter dated 15 Sep 2022 be shown to him and also that the same be given to RTI applicant/appellant alongwith documentary proof towards its dispatch. In addition, he had directed that all the replies to the applicant/appellant be uploaded in their portal alongwith the documentary proof of dispatch of FAA's letter dated 15 Sep 2022.

4. In view of the above, you are hereby instructed to affirm as to whether the above stated FAA's letter dated 15 Sep 2022 had been issued to the : pplicant/appellant & if so, then requisite documentary evidence be kindly given so that the case can be processed further for information of Competent Authority & subsequent action.

5. An urgent reply is solicited.

(N.K. Panda)
Dy. Director(WE)
Nanda Kishore Panda 16/01/2024
Deputy Director (WE)

Sh Shivam, ASO

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2	CGDA 18(34)/2020-D(WC/NES-I) 30/9/22		
3	Sh. Amrban Chakraborty 24(09)/2022-D(WC/NES-I) 4/10/2022		
4	Regional Centre, ECHS, Kolkata, 24(09)/2022-D(WC/NES-I) 4/10/22		
5	Stn HQ (A/ECHS), Kolkata, 24(09)/2022-D(WC/NES-I) 4/10/2022		
	TOTAL - (5)		

Despatcher:
Date: 6/10/22
MoD/ESW/WE - Total - (5)

DATE STAMP	(Officer in Charge) Speed Post Booking Centre	Time of Receipt	Signature of sender

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Office of ESW
Ministry of Defence

Despatcher:
Date: 6/10/2022
MoD/ESW/WE - Total - (5)

24(09)/2022/RTI/WE/7

Sub:- Seeking information under RTI Act, 2005 in case of Shri Anirban Chakraborty- reg.

Reference:-

d) RTI application DEXSW/R/E/22/00523 dated 02.06.2022
e) MoD letter No. 24(09)/2022-D(WE)/Res-1 dated 27.07.2022
f) Letter No. RTIA/ACFSH/DESW/8A7(11F) dated 24th August 2022

2. It is informed that you had requested to suo moto publish online in the website of ECHS certain details about all the reimbursement claims, processed by Polyclinic in the previous month, and in that context, you have cited various sections of RTI Act, 2005 viz sec 2(j)(ii), sec 4(1)(b)(xvii) and sec 4(2) etc. On perusal of RTI Act, it is found that while sec 2(j)(ii) relates to "taking notes, extracts or certified copies of documents or records", section 4(1)(b)(xvii) relates to "such other information as may be prescribed, and thereafter update these publications every year". By and large section 4 of the RTI Act deals with the obligations of Public Authority, while section 2(j) defines, right to information. However, the information which is sought by the appellant is not actually **"the information"** within the definition given under section 2(f) of RTI Act, 2005. Because section 2(f) only discusses about that information, which is available with the Public Authority in the form of records, documents, memos, e-mails etc. On the contrary the information sought for by the appellant is more of the nature of **"complaint"** and definitions of 'information' and 'complaints' are different altogether. The appellant himself mentioned that **"information sought in RTI as well as in complaints"**. The subject complaint is mentioned in Chapter III of CVC's Vigilance manual 2021 & the same is available in public domain. The appellant can access the same on his own and will find that **'information'**, defined under RTI Act, 2005cannot be **'complaints'**, defined in Chapter III & Civil Vigilance Manual 2021 & vice versa. Because, information is those documents, records which are available with Public Authority and it is found that the appellant has not asked for any of these specific documents, records etc. (i.e. information) in his RTI application or appeal.

3. In view of the same & also considering the fact that above mentioned questions are not information, as defined under section 2(f) of RTI, Act, hence no information can be shared with you.

4. If the appellant is not satisfied with the reply given along, then he may approach the 2nd Appellate Authority (i.e. CIC).

5. Accordingly, a draft reply to appellant is placed opposite for perusal & approval pl.

Submitted please

Bhiwan
15/09/2022

SO(WE) – OL

DD(WE) — The 1st appeal (its content) is more of a complaint in nature than RTI query. This RTI application is also the same. Some things are not information under sec 2(f) of Act. We will intimate him accordingly.
2. Draft is putup for kind approval

15/9/22

SO(WE) 15/9

DD(WE)

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Received on 27 Jan 2024.

(1)

भारत सरकार सेवार्थ
ON INDIA GOVERNMENT SERVICE
24(09)/2022-D(WE/Rest)

To,
SH. ANIRBAN CHAKRABORTY
2 NO- MOTILAL COLONY
PO- RAJBARI COLONY
KOLKATA
WEST BENGAL -700081

EMS SPEED POST
ED531175204IN

Office of ESW
Ministry of Defence

रक्षा मंत्रालय
Ministry of Defence
नई दिल्ली
New Delhi

Despatcher
Date: 23/1/24
MoD/ESW/WE

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RTI matter

24(09)/2022-D(WE)/Res-1
Government of India
Ministry of Defence
D/o Ex-Servicemen Welfare
D(WE)

-----, Dated: 04 .10.2022

To

Shri Anirban Chakraborty
2 No. Motilal Colony
PO- Rajbari Colony, Kolkata
West Bengal-700081

Sub:- Seeking information under RTI Act, 2005 in case of Shri Anirban Chakraborty- reg.

Reference your email dated 27.09.2022

2. CO, ECHS had been requested vide MoD Id dated 20.09.2022 to dispose of the RTI application dated 11.09.2022. Subsequently, CO, ECHS vide their letter dated 23.09.2022 had informed that the subject pertains to CPIO/ PIO Stn HQ Kolkata and CPIO/ PIO ADG AE (RTI Cell). A copy of the said letter had been forwarded to you by CO, ECHS (Copy enclosed).

Copy to:-

a) ADG AE (RTI Cell)
b) RC, ECHS
Kolkata –
c/o
c) Stn HQ (A/ECHS)
Kolkata –
c/o

1. Reference CO ECHS above mentioned letter dated 23.09.2022.
2. Necessary clarification/ instruction w.r.t disposal of RTI application dated 11.09.2022 mentioned by RTI applicant have been given by MoD, DoESW, vide their ID. No. 24(09)/2022-D(WE/Res-1) dated 20.09.2022 (Copy Enclosed). Since the prescribed time period of one month is going to expire on 11.10.2022, it is imperative that an urgent feedback shall be provided to this office for disposal of RTI application. Disposal of the RTI application shall be made of in accordance with provisions contained in RTI Act 2005, which have been highlighted in MoD, DoESW ibid letter dated 20 Sep 2022.

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CO, ECHS

1. Refer MoD/ DoESW ibid letter dated 20.09.2022.

2. Guidelines/ clarification w.r.t. methodology for disposal of this RTI application have been given in MoD ibid letter dated 20.09.2022. It was required that MoD letter dated 20.09.2022 be forwarded to these organizations as they could discriminate ingredients of complaint from RTI queries and dispose them.

3. In view of the above, please confirm if copies of MoD ID dated 20 Sep 2022 have been forwarded to these agencies as it is not evident from CO, ECHS ibid letter dated 23.09.2022 as to whether copies of above mentioned MoD Id dated 20th Sept have been forwarded to them. The guidelines/ instructions w.r.t. methodology for disposal of the complaint are mentioned in MoD ibid Id dated 20th Sept 2022 and disposal of RTI application by these agencies may be successfully done after perusal of this guidelines.

4. An urgent reply is solicited w.r.t. para 3 above.

Encl: As above.

(NK Panda)
CPIO & Dy. Director to the Govt. of India
Tel: [redacted]

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Fwd: RIGHT TO INFORMATION ACT-2005 IN R/O ANIRBAN CHAKRABORTY

16

From : Dr Puran Prakash Sharma <[redacted]> Tue, Sep 27, 2022 12:39 PM
Subject : Fwd: RIGHT TO INFORMATION ACT-2005 IN R/O ANIRBAN CHAKRABORTY 3 attachments
To : Shri Naresh Chander Pasi <[redacted]>
Reply To : Dr Puran Prakash Sharma <[redacted]>

From: [redacted]
To: "Shri Naresh Chander Pasi" <[redacted]>, "Dr Puran Prakash Sharma" <[redacted]>, "MAJ GEN NR INDURKAR SM" <[redacted]>
Cc: "Lt Col Vidyut Mukherjee (Retd)" <[redacted]>, "P R MOHANTY" <[redacted]>, "Col Anirudh Shekhawat" <[redacted]>, "Brig Anupam Agarwal" <[redacted]>, "Surg Capt Rajesh Batlish" <[redacted]>, "Col A C Nishil" <[redacted]>, "Lt Col SC Katoch" <[redacted]>
Sent: Saturday, September 24, 2022 5:22:24 AM
Subject: Re: RIGHT TO INFORMATION ACT-2005 IN R/O ANIRBAN CHAKRABORTY

Respected Managing Director
CO ECHS,

RTI ONLINE Reference No.: DEXSW/R/E/22/00891. (Copy of the application is herewith attached.)

I thank you for letting me know about the developments, I hope you would provide the information sought at the earliest.

You may follow the instructions as given by the CPIO, NK Panda; but don't dwell on misconception that RTI applications are filed to obtain textbook knowledge, to worship my lord, or to celebrate the idiocy of legislature.

The preamble of RTI is made to fight against corruption and to protect innocent and weak from the people who abuse their positions. Every RTI request, in public interest, has the force of complaint against the government and the executives of the government, and takes the form of demand for existing documents. Each query in my RTI Application pay respects to the preamble and loudly and clearly demands copies of existing documents.

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Further, registeration number of a doctor is information made mandatorily public by statute for identification and authentication of registration in medical council of the doctor by patients. The same is not personal information, and it is generated through common process:

Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002---
1.4 Display of registration numbers:
1.4.1 Every physician shall display the registration number accorded to him by the State Medical Council / Medical Council of India in his clinic and in all his prescriptions, certificates, money receipts given to his patients.
(COPY IS HEREWITH ATTACHED)

Let me show to the CIC and the citizens of India that how the beneficiaries are dominated and maltreated by the arrogant and ignorant administrators in ECHS, and let me show to the public how much are the beneficiaries deprived of facilities due to botched up administration.

You did great by sending to me a copy of the letter of the CPIO (diary no. 5 dated 21st Sep 2022, copy is herewith attached), I shall use it for advantage of the beneficiaries in public forum as evidence against the ECHS.

So much lecture of the CPIO on "currently effective" and "whatever" is another evidence that the CPIO has no concern for the intention of the RTI applicant. Currently effective refers to not historical but the extant documents and whatever is used in the sense of "and the like".

Also, don't forget that query 2(b) is backed by the section 10 of the RTI Act, 2005.

I hope your learned CPIO and Law Cell personnel are seasoned professionals to stonewall the information sought; but I can already see how sweet the hearing in CIC is going to be two years hence, with exemplary fine, criticism, and loss of your credibility.

Remember, the CPIO, NK Panda, has given opinion to you, but not denied information to me directly. The CPIO, therefore, is not going to face charges for ill advice. Rather, the CPIO has shifted the responsibility to make the final decision and provide or deny information on your shoulders. So you are the only one who is going to face charges u/s 5(5) of the RTI Act, 2005.

On my behalf, kindly request NK Panda to do no harm to the people in general and to you. Let me be clear about one thing, the ECHS will be facing two more RTI inquires for the empowerment of all the beneficiaries so that no beneficiary has to suffer the way my father suffered due to administration centric policies, for sure.

Requested, information sought be provided as early as the business of this office permits to co-operate in early escalation of the matter in CIC, in public domain.

Vehement objection is made and acknowledgement for receipt of your yesterday's email is hereby served. Thanks.

With regards
Anirban Chakraborty
(Authorised representative and the patient party)

S/o
Nk Gopal Chakraborty (Retd.)
2 No. Motilal Colony, P.O.: Rajbari Colony, Kolkata 700081, West Bengal

Ph.

ECHS Polyclinic: Saltlake
RC: Kolkata

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On Fri 23 Sep, 2022 16:19 Col Anirudh Shekhawat, <[redacted]> wrote:
Dear Sir,

Please see attached file.

Regards.

--

L ;ector (Complaints & Litigation)
AG's Branch IHQ of MoD (Army)
Central Organisation ECHS

(74)

Disclaimer note on content of this message including enclosure(s) and attachments(s): The contents of this e-mail are the privileged and confidential material of RC ECHS, Delhi-1. The information is solely intended for the individual/entity it is addressed to. If you are not the intended recipient of this message, please be aware that you are not authorized in any which way whatsoever to read, forward, print, retain, copy or disseminate this message or any part of it. If you have received this e-mail in error, we would request you to please notify the sender immediately by return e-mail and delete it from your computer. This e-mail message including attachment(s), if any, is believed to be free of any virus and this office is not responsible for any loss or damage arising in any way from its use.

Anirban Chakraborty.pdf
5 MB

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Code of Medical Ethics Regulations.pdf
155 KB

AC RTI ECHS 20220911 PRO.pdf
499 KB

RTI REQUEST DETAILS (आरटीआई अनुरोध विवरण)

Registration Number (पंजीकरण संख्या) :	DEXSW/R/E/22/00897	Date of Receipt (प्राप्ति की तारीख) :	11/09/2022
Type of Receipt (रसीद का प्रकार) :	Online Receipt	Language of Request (अनुरोध की भाषा) :	English
Name (नाम) :	Anirban Chakraborty	Gender (लिंग) :	Male
Address (पता) :	2 No. Motilal Colony, P.O. Rajbari Colony,, Calcutta 700081, West Bengal, Pin:700081		
State (राज्य) :	West Bengal	Country (देश) :	India
Phone Number (फोन नंबर) :	+91-	Mobile Number (मोबाईल नंबर) :	+91-
Email-ID (ईमेल-आईडी) :			
Status (स्थिति)(Rural/Urban) :	Details not provided	Education Status :	Details not provided
Is Requester Below Poverty Line ? (क्या आवेदक गरीबी रेखा से नीचे का है?) :	No	Citizenship Status (नागरिकता)	Indian
Amount Paid (राशि का भुगतान) :	10) (original recipient)	Mode of Payment (भुगतान का प्रकार)	Payment Gateway
Does it concern the life or Liberty of a Person? (क्या यह किसी व्यक्ति के जीवन अथवा स्वतंत्रता से संबंधित है?) :	No(Normal)	Request Pertains to (अनुरोध निम्नलिखित संबंधित है) :	NK Panda ECHS
Information Sought (जानकारी मांगी):	Respected Official, Kindly go through the herewith attached RTI Application. Thanks. With regards Anirban Chakraborty		

Print Save Close

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स्वच्छ भारत
एक कदम स्वच्छता की ओर

भारत सरकार सेवार्थ
ON INDIA GOVERNMENT SERVICE

Despatcher: SA
Date: 6/10/22
MoD/ESW/WE -3

To,

Shri Anirban Chakraborty,
2 No. Motilal Colony,
PO- Rajbhari Colony, Kolkata,
West Bengal- 700 081.

No. 24(09)/2022-D(WE/Res-I) **Dt. 04.10.2022**

EMS SPEED POST
ED170340785IN

Office of ES, Ministry of Defence

रक्षा मंत्रालय
Ministry of Defence
नई दिल्ली
New Delhi

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केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

File No : CIC/DEXSW/A/2022/664968
CIC/DEXSW/A/2023/639662

Anirban Chakraborty .....अपीलकर्ता/**Appellant**

VERSUS
बनाम

PIO,
Department of Ex-Servicemen Welfare, Ministry of Defence, Room No. 221, 'B' Wing, Sena Bhavan, New Delhi -110011. ....प्रतिवादीगण /**Respondent**

Date of Hearing : 15-01-2024
Date of Decision : 17-01-2024

INFORMATION COMMISSIONER : Vinod Kumar Tiwari

The above-mentioned Appeals are clubbed together as the Appellant is common and subject-matter is similar in nature and hence are being disposed of through a common order.

Relevant facts emerging from appeals:

RTI applications filed on : 25-05-2022 and 23-01-2023.
CPIO replied on : 27-07-2022 and 07-03-2022.
First appeals filed on : 31-08-2022 and 04-04-2023.
First Appellate Authority's order : Not on record and 09-05-2023.
2nd Appeals/Complaint dated : 04-12-2022 and 14-08-2023.

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Information sought:

The Appellant filed an RTI application dated 25.05.2022 seeking the following information:

"Subject: A requisition for maintaining transparency sou moto in the order of processing of reimbursement claims of the beneficiaries of the Ex-servicemen Contributory Health Scheme at the level of Polyclinics all over India under the Section 4 of the Right to Information Act, 2005.

Information sought under the RTI Act, 2005:

For all the beneficiaries of the E.C.H.S. and in respect of the E.C.H.S. Polyclinics situated all over India:

1) You are requested to henceforth suo moto publish online, on the website of the E.C.H.S., a list containing the following details about all the reimbursement claims processed by a polyclinic in the previous month, under the sections 2(j)(ii), 4(1)(b) (xvii), and 4 (2) of the Right to Information Act, 2005:

a) 8 Name, rank, and the last three digits of the E.C.H.S. card number of the beneficiaries who are claiming reimbursement.

b) Date and mode of submission of their reimbursement claim documents.

c) Entry serial number locally assigned by the polyclinic to such submission, if any.

d) The date on which the parent polyclinic finalized and uploaded the documents of a reimbursement claim in the designated bill processing website, like UTI-ITSL.

e) The date on which the parent polyclinic verified the reimbursement claim, self-uploaded in the designated bill processing website by the beneficiary, for further processing.

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f) The date on which the fund allocated to the polyclinic in the previous month for doing local purchase exhausted or became insufficient.

2) It is quite indispensable that the list as generated in due course be positively published per month per polyclinic all over India."

The CPIO furnished a reply to the Appellant on 27.07.2022 stating as under:

> *"In this regard, it is informed that "as regard the points highlighted by you regarding publishing of monthly details of all reimbursement claims processed at Polyclinic on ECHS web portal for public display, It is informed that adequate steps have been taken towards ensuring transparency. Also, all online medical Bills are uploaded on BPA Portal wherein a beneficiary can track the status of his claim and know the stage at which the claim is being processed. The beneficiary is entitled to know only about his claim and not about the claim of other beneficiaries due to privacy and confidentiality issues".*

Being dissatisfied, the appellant filed a First Appeal dated 31.08.2022. The FAA order is not on record.

Feeling aggrieved and dissatisfied, appellant approached the Commission with the instant Second Appeal.

CIC/DEXSW/A/2023/639662

Information sought:

The Appellant filed an RTI application dated 23.01.2023 seeking the following information:

> *"1) Gather the records of all the disposed/closed/non-pending cases filed anywhere in India by or against the E.C.H.S. in the High Courts, the Supreme Court, the District Consumer Fora, the State Consumer Commissions, the National Consumer Commission, the Armed Forces Tribunals, The Central Information Commission, and the like since inception of the E.C.H.S., i.e. the year 2003, and till date, and publish the same in the websites of the E.C.H.S. and the D.E.S.W. in the manner stated as follows:*
>
> *a) A list of the followings:*

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> *i) Case No. and Case Year.*
> *ii) Case Type.*
> *iii) Names of the Plaintiff and the Defendant.*
> *iv) Name of the court, forum, commission, tribunal, etc.*

b) Publish the copies of decisions, orders, or judgements of such cases as available with the E.C.H.S.

2) Publish the in the websites of the E.C.H.S. and the D.E.S.W. the following amounts relevant to the period: since inception of the E.C.H.S., i.e. the year 2003, and till date:

a) interest paid by the E.C.H.S. to the beneficiaries on the reimbursement-claims that were denied or rejected by the E.C.H.S.

b) compensation and cost paid by the E.C.H.S. to the beneficiaries for harassment, mental agony, and cost of litigations.

3) On the website of the E.C.H.S. and the D.E.S.W., henceforth suo moto regularly update the information sought in the S. No. 1 and 2 above, u/s 4 (1) (b) (xvii), and 4 (2) of the Right to Information Act, 2005.

4) It is quite indispensable that the details of the official also be published to whom the beneficiaries can file complaints of the cases missing from the aforesaid lists.

The CPIO furnished a reply to the Appellant on 07.03.2023 stating as under:

"It is informed that reply furnished by CO, ECHS vis-à-vis queries raised by RTI applicant in his application dated 13.02.2023 has been examined in accordance with the provisions contained in RTI Act, 2005. Accordingly, following aspects have been noticed: -

i. that the individual has not sought for any specific "Information" (as defined under Sec 2(f) of RTI Act, 2005) because he has not sought for any material in any form including records, documents, memos, e-mails etc. Rather, it is seen that the applicant has given direction to the Public Authority by mentioning the term "Gather the records of all the disposed/ cleared/ non pending cases by or against the ECHS in the High Courts, The Supreme Court, the District Fora etc." As such RTI applicant does not have power to give any direction to Public Authority within the jurisdiction of the RTI Act, 2005 & rather it is incumbent upon him to seek "information" only under Sec 2(f) of RTI Act, 2005. In case he finds any lacuna in the system, then he may lodge complaint against different authorities, if any systematic infirmities are noticed by him. Also, such

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complaint may only be lodged at CVC at its portal (evc.nic.in) or in written form. Because, Public Authority only has the responsibility of providing information to RTI applicant under RTI Act, 2005, while other agencies have different responsibilities of gathering or uploading information, as & when these are mandated under law. RTI applicant discuss about activities, which are to be taken by such different authorities. These different authorities will however work in tandem with Public Authority/ CPIO for improving the system in such a manner so that "information" can be disseminated in public interest to the larger benefits of the society.

Therefore, suggestion of RTI applicant has been taken into cognizance. In this context, it is seen that the reply given by CO, ECHS is correct to the extent this has been given in term of provision contained in Sec 2(f) of RTI Act, 2005. However, CO, ECHS should indicate Sec 2(f) invariably in all their correspondences.

ii. that the individual has not sought for any specific information (as defined under Sec 2(f) of RTI Act, 2005) because he has not sought for any material in any form including records, documents, memos, e-mails etc. Rather, it is seen from the applicant has given direction to the public authority by mentioning "Publish in the websites of the ECHS and the DESW the following amounts relevant to the period: since inception of the ECHS i.e. the year 2003 and till date etc." As such RTI applicant does not have power to give any direction to Public authority within the jurisdiction of the RTI Act, 2005 & rather it is incumbent upon him to seek information only under Sec 2(f) of RTI Act, 2005. In this context, it is seen that the reply given by CO, ECHS is correct to the extent this has been given in term of provision contained in Sec 2(f) of RTI Act. 2005.

iii. In this query, the RTI applicant has not sought any information and rather requests or guides the Public Authority to act in accordance with Section 4(1)(b)(xvii) and 4(2) of RTI Act, 2005. Even he does not make any complaint against Public Authority & rather apprises about the provisions under the above-mentioned Section 4(1)(b)(xvii) & 4(2) of RTI Act, 2005 & requests for acting for updating of information in ECHS & DESW. This opinion of RTI applicant is praiseworthy & has been taken cognizance for optimization in future Endeavour by the Public Authority.

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iv. The query raised by RTI applicant is again not an information under Section 2(f) of RTI Act, 2005. RTI applicant seeks details of officials with whom the RTI beneficiaries may file complaints in the event of any

grievances. To this extent the reply furnished by CO, ECHS seems proper. Hence the issue appears resolved."

Being dissatisfied, the appellant filed a First Appeal dated 04.04.2023. The FAA vide its order dated 09.05.2023.

Feeling aggrieved and dissatisfied, appellant approached the Commission with the instant Second Appeal.

Relevant Facts emerged during Hearing:
The following were present:-

Appellant: Along with his father Shri Gopal Chakraborty, present through video-conference.

Respondent: Shri N. K. Panda, Deputy Director & CPIO, DESW along with Shri Deepak Pant, J.S.A., DESW and Col. Anirudh Bhardwaj, Director, CO ECHS- Delhi Cantt. Present in person.

Written submissions of the parties are taken on record.

Appellant narrated the genesis of the instant matters being non-imbursement of ECHS beneficiaries. He contended that relevant information was not uploaded by the Respondents on their weblink under *suo-moto* disclosures in keeping with the letter and spirit of RTI Act. In case No. CIC/DEXSW/A/2022/664968, FAA has failed to adjudicate First Appeal despite repeated reminders.

Shri N. K. Panda, Deputy Director & CPIO, DESW submitted that timely response has already been provided to the Appellant against the RTI Applications. In case No. CIC/DEXSW/A/2022/664968, FAA disposed of the First Appeal on 15.09.2022 and a copy of said order was already dispatched to the Appellant through speed post. He agreed to resend copy of FAA's order to the Appellant with the proof of dispatch receipt through which order has been send to the Appellant. Respondent apprised the Commission that no specific information has been sought by the Appellant in instant cases, rather he advised the CPIOs to disclose the information on their weblink.

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Appellant interjected to contend the inaction of the Respondent Public Authority in not reimbursing the genuine claims of the beneficiaries which is a matter of concern.

Decision:

The Commission after adverting to facts and circumstances of the case and upon a perusal of the facts on record finds that the dissatisfaction of the Appellant with the reply provided by the CPIO is bereft of merit as the queries raised in the RTI Application do not strictly conform to the definition of *"information"* as per Section 2(f) of RTI Act. It appears that the Appellant is harbouring a grievance and is not seeking access to information as envisaged under the RTI Act. Despite this, the CPIO has provided response to the Appellant in the spirit of RTI Act.

For better understanding of the mandate of the RTI Act, the Appellant shall note that outstretching the interpretation of Section 2(f) of the RTI Act to include deductions and inferences to be drawn by the CPIO is unwarranted as it casts immense pressure on the CPIOs to ensure that they provide the correct deduction/inference to avoid being subject to penal provisions under the RTI Act.

In this regard, the Appellant's attention is drawn towards a judgment of the Hon'ble Supreme Court on the scope and ambit of Section 2(f) of RTI Act in the matter of ***CBSE vs. Aditya Bandopadhyay & Ors.***[CIVIL APPEAL NO.6454 of 2011]wherein it was held as under:

> *"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information* ***that is available and existing.....A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide `advice' or `opinion' to an applicant, nor required to obtain and furnish any `opinion' or `advice' to an applicant. The reference to `opinion' or `advice' in the definition of `information' in section 2(f) of the Act, only refers to such material available in the records of the public authority.*** *Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."* **(Emphasis Supplied)**

Similarly, in the matter of ***Khanapuram Gandaiah vs Administrative Officer &Ors.*** [SLP (CIVIL) NO.34868 OF 2009], the Hon'ble Supreme Court held as under:

> *"7....Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get*

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only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and ***Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him....*** **(Emphasis Supplied)**

And, in the matter of ***Dr. Celsa Pinto, Ex-Officio Joint Secretary,(School Education) vs. The Goa State Information Commission*** [2008 (110) Bom L R 1238], the Hon'ble Bombay High Court held as under:

"..... Section 2(f) -Information means any material in any form, including records, documents, memos e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

The definition cannot include within its fold answers to the question why which would be the same thing as asking the reason for a justification for a particular thing. ***The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."*** **(Emphasis Supplied**

Similarly, the Appellant is advised about the powers of the Commission under the RTI Act by relying on certain precedents of the superior Courts as under:

The Hon'ble High Court of Delhi in the matter of ***Hansi Rawat and Anr. v. Punjab National Bank and Ors. (LPA No.785/2012) dated 11.01.2013*** has held as under:

"6. ....proceedings under the RTI Act cannot be converted into proceedings for adjudication of disputes as to the correctness of the information furnished."(Emphasis Supplied)

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The aforesaid rationale finds resonance in another judgment of the Hon'ble Delhi High Court in the matter of ***Govt. of NCT of Delhi vs. Rajender Prasad (W.P.[C] 10676/2016) dated 30.11.2017*** wherein it was held as under:

"6. The CIC has been constituted under Section 12 of the Act and the powers of CIC are delineated under the Act. The CIC being a statutory body has to act strictly within the confines of the Act and is neither required to nor has the jurisdiction to examine any other controversy or disputes."

While, the Apex Court in the matter of ***Union of India vs Namit Sharma (Review Petition [C] No.2309 of 2012) dated 03.09.2013*** observed as under: 0

*"20. ...While deciding whether a citizen should or should not get a particular information "which is held by or under the control of any public authority", the Information Commission does not decide a dispute between two or more parties concerning their legal rights other than their right to get information in possession of a public authority...." (**Emphasis Supplied**)*

The Appellant is therefore, advised to exercise his right to information in an informed and judicious manner in the future.

In case No. CIC/DEXSW/A/2022/664968 –

In furtherance of hearing proceedings, the Respondent is directed to resend a copy of FAA's order dated 15.09.2022 along with proof of dispatch receipt acknowledging post of said order to the Appellant at first instance. This direction should be complied with by the Respondent within one week from the date of receipt of this order and a compliance report to this effect shall be uploaded by the Respondent on the Commission's website through a link given in the hearing notice.

With the abovesaid observations, both the appeals are disposed accordingly.

Vinod Kumar Tiwari (विनोद कुमार तिवारी)
Information Commissioner (सूचना आयुक्त)

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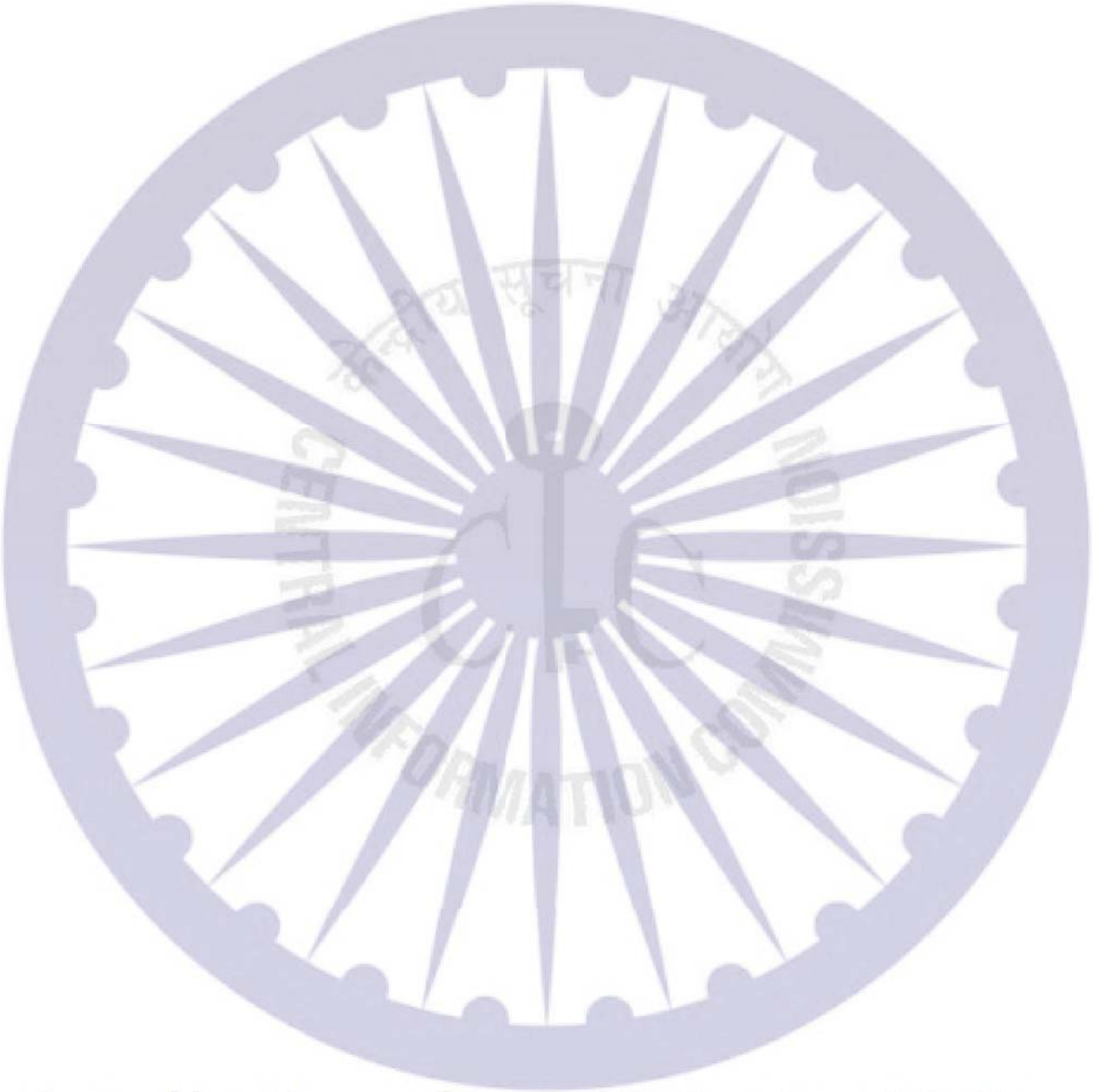

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